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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,205	08/22/2006	Markku Keskiniva	47121-5021-00 (230541)	5093
55694	7590	08/18/2009	EXAMINER	
DRINKER BIDDLE & REATH (DC) 1500 K STREET, N.W. SUITE 1100 WASHINGTON, DC 20005-1209			LOPEZ, MICHELLE	
		ART UNIT	PAPER NUMBER	
		3721		
		MAIL DATE		DELIVERY MODE
		08/18/2009		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,205	<b>Applicant(s)</b> KESKINIVA ET AL.
	<b>Examiner</b> Michelle Lopez	<b>Art Unit</b> 3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 June 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 6/03/09.
2. New claim 6 has been added.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Temple (USPN 787,960).

Temple discloses a pressure-fluid operated percussion device, comprising: a frame (a) allowing a tool (not shown numerically) to be arranged therein movably in its longitudinal direction (as seen in page 1, lines 70-73), means for feeding pressure liquid to the percussion device and for returning pressure liquid to a liquid pressure tank cylinder via (b); means for producing a stress pulse via (f); a working chamber (above the piston d) filled with pressure liquid and, between the working pressure chamber and the tool, a transmission piston (d) movably arranged in the frame and which is in contact with the tool at least during stress generation (as seen in page 1, lines 66-73), and a charging pressure chamber (below the piston d) on the side of the piston facing the tool; a pressure liquid source (r) connected to the working pressure chamber via valve (c) in order to maintain pressure in it (as seen in page 1, lines 50-58 and 80-84), and means for intermittently feeding to the charging pressure chamber with pressure liquid whose pressure enables the transmission piston to be pushed towards the working pressure

chamber (as seen in page 1, lines 84-89) and into a predetermined backward position of the transmission piston such that pressure liquid is discharged from the working pressure chamber (page 1, lines 90-94), alternately, allowing pressure liquid to be discharged rapidly from the pressure charging chamber to push the piston towards the tool (as seen in page 1, lines 96-96, cont. in page 2, lines 1-3), compressing the tool and thus generating a stress pulse in the tool while maintaining the piston in contact with the tool during compression of the tool (as seen in page 1, lines 9-15, 50-58, and 70-73).

Regarding claim 2, Temple shows wherein the means for feeding pressure liquid to the working chamber are arranged to feed the pressure liquid such that pressure in the working chamber remains substantially constant during operation of the percussion device (as seen in page 1, lines 50-58).

Regarding claim 3, Temple shows wherein the pressure liquid of equal pressure is fed to both the working and the charging pressure chambers via opening of valve (c).

Regarding claim 4, Temple shows wherein the working pressure chamber is connected to a source of pressure liquid, such that the pressure liquid source tries to feed pressure liquid thereto continuously while the valve (c) remains open.

Regarding claims 5-6, Temple shows a pressure accumulator (z) and wherein the source of pressure liquid (r) is a pump.

*Response to Arguments*

4. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle Lopez/  
Examiner, Art Unit 3721

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721